action, or to retain the tort action and effect the same result in the exercise of its plenary jurisdiction as was done in the principal case. Eaton, Eq. Jur. § 10.

MUNICIPAL CORPORATIONS—ORDINANCES—PICKETING IN STREETS.—Under a provision in a city charter empowering the city to protect health, life and property, and to preserve order and security within its limits, an ordinance was passed prohibiting loitering on, or walking back and forth in, the streets, before places of business, for the purpose of persuading persons from entering to transact business. *Held,* such an ordinance was a valid exercise of the police power. *Ex parte Stout* (Tex. Crim. App. 1917) 198 S. W. 967.

Municipal police power to regulate the use of streets is limited by the common right of use possessed by the public. This common right is that of passing along the streets for buiness or pleasure, on foot or by vehicles. Freund, Police Power § 168. Regulation in the public interest, not unreasonably interfering with this fundamental right, is generally upheld. Some jurisdictions hold ordinances prohibiting loitering on the streets invalid, the right of use including that of loitering. *City of St. Louis* v. *Gloner* (1908) 210 Mo. 502, 109 S. W. 30. The Pennsylvania courts uphold such legislation, ruling that the common right is that of transit only, with such stoppages as business necessity, accident, or the exigencies of travel, require. *Commonwealth* v. *Challis* (1898) 8 Pa. Super. Ct. 130. Ordinances forbidding the public selling of theater tickets, *People ex rel Lange* v. *Palmitter* (1911) 128 N. Y. Supp. 426, 71 Misc. 158, or merchandise, *Commonwealth* v. *Ellis* (1893) 158 Mass. 555, 33 N. E. 651, or the "drumming" of patronage for hotels, etc., *Baird* v. *Bray* (1916) 125 Ark. 511, 189 S. W. 657, in the streets, and one prohibiting, with certain exceptions, the display there of advertisements on vehicles, *Fifth Ave. Coach Co.* v. *City of New York* (1909) 194 N. Y. 19, 86 N. E. 824, have been upheld; the practise legislated against in each instance tended to impede passage in the streets, and its exercise was not a common right. Unlicensed street speeches and meetings may similarly be forbidden. *Love* v. *Judge of Recorder's Court* (1901) 128 Mich. 545, 87 N. W. 785. Legislation directed against the carrying of signboards in the streets has been upheld. *Commonwealth* v. *McCafferty* (1889) 145 Mass. 384, 14 N. E. 451. The principal case is supportable on similar grounds. Picketing, even when conducted without threat or coercion, is calculated to provoke disorder. Its prohibition is a proper exercise of the police power, for the common right does not extend to use for purposes of public argument and persuasion.

SALES—FAILURE TO RETURN GOODS AFTER TRIAL—ACCEPTANCE.—The plaintiff delivered to the defendant a piano which the latter agreed to try for 30 days, at the end of which time he was to keep it, if satisfied, and pay for it under the terms of a contract then to be signed. If not satisfied, the defendant was to return the piano. The defendant kept the piano for more than six months before expressing his disapproval. *Held,* that he had accepted the instrument and was liable for the price. *F. O. Evans Piano Co.* v. *Tully* (Miss. 1917) 76 So. 833.

It is well established that where goods are left with a prospective vendee on approval for a fixed trial period, but no mention is made of the time within which approval must be expressed, such expression must be made within a reasonable time after the end of the trial period.

Springfield Engine Stop Co. v. *Sharp* (1903) 184 Mass. 266, 68 N. E. 224. The law seems to be equally well settled that retention of the goods for a longer time transfers title to the prospective vendee and makes him absolutely liable for the price. *American Electric Tel. Co.* v. *Emporia Tel. Co.* (1910) 83 Kan. 64, 109 Pac. 780; *In re Downing Paper Co.* (C. C. A. 1905) 147 Fed. 858. The principal case must be distinguished from that of a "sale or return" where the expiration of the period for return fixes the liability of the vendee if he has not expressed his dissatisfaction by that time. *International Filter Co.* v. *Cox Bottling Co.* (1913) 89 Kan. 645, 132 Pac. 180; *Fiss, etc. Co.* v. *Schwartzchild* (1910) 121 N. Y. Supp. 292. The Sales Act is not in force in the jurisdiction of the principal case and its application is not involved. There seems no doubt, however, that where it is in force its provisions would cover the facts, as assumed by the court. Title would pass to the vendee, in the absence of an expression of approval, at the end of the time agreed upon for such expression, or at the end of a reasonable time, in the absence of such agreement. Uniform Sales Act § 19, N. Y. Per. Prop. Law § 100; see *Isaacs* v. *Macdonald* (1913) 214 Mass. 487, 102 N. E. 81; Williston, Sales § 272. The fact that the defendant never signed the formal contract would not affect his liability under the original agreement, since an agreement to sign a contract whose terms are settled is binding on the parties, whether the formal contract is signed or not. *New York, etc. Co.* v. *Meyersdale Coal Co.* (C. C. A. 1914) 217 Fed. 747; *Berman* v. *Rosenberg* (Me. 1916) 97 Atl. 6. But there is force in the dissenting opinion in the principal case, where it is insisted that the original agreement, even if binding, was to sign one of three formal contracts. In this view of the facts it is clear that the Sales Act could have no application, and that any recovery by the plaintiff would be limited to the actual damages suffered from the breach of the original agreement. *Isaacs* v. *Macdonald, supra.* On this point the principal case can be supported only on the assumption set forth in the majority opinion, that the agreement was to sign one definite contract for a fixed price.

SURETYSHIP—DISCHARGE OF SURETY—RELEASE OF ATTACHMENT.—The defendant was indorser of a promissory note of which the plaintiff had become holder. The plaintiff had commenced a suit against the maker and attached the property of the latter, but had subsequently discontinued the suit and released the attachment. *Held,* that the release of the attachment did not discharge the surety. *Howard Nat'l. Bank* v. *Arbuckle* (Vt. 1917) 102 Atl. 476.

As a general rule, a surety is not released by the mere inaction of the creditor, Stearns, Suretyship § 95, unless the inaction constitutes gross negligence, such as the failure to record a chattel mortgage, in which event the surety is discharged to the extent of the loss caused him. *Hendryx* v. *Evans* (1903) 120 Iowa 310, 94, N. W. 853; see *Nunn* v. *Smith* (Tex. Civ. App. 1917) 194 S. W. 406; *contra, Philbrooks* v. *McEwen* (1868) 29 Ind. 347. Usually, however, any act on the part of the creditor which tends to injure the surety releases the latter, *City of Maquoketa* v. *Willey* (1872) 35 Iowa 323, and, in accordance with this rule, a release of an execution lien upon the property of the principal discharges the surety. *Winston* v. *Yeargin* (1873) 50 Ala. 340; *Williams* v. *Brown* (1912) 70 W. Va. 472, 74 S. E. 409. When, however, the creditor before judgment merely attaches the property of the principal debtor and subsequently releases the attachment, some